

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

WILLIAM S. MCLAURINE, II)	
)	
Plaintiff,)	
)	
v.)	
)	3:06-cv-1014-MEF
CITY OF AUBURN, ALABAMA,)	
unnamed police DISPATCHER)	
deputy director BENJAMIN WALKER,)	
Officer LAVARRO BEAN,)	
Lieutenant MATTHEWS, Lieutenant)	
KEITH HOWELL, Chief FRANK)	
DEGRAFFENRIED, DAVID WATKINS,)	
director "BILL" JAMES, and city)	
manager CHARLES DUGGAN,)	
)	
Defendants.)	

MOTION TO DISMISS

COME NOW the Defendants and herewith move this Court to dismiss the following parties and/or claims;

1. Dismiss the Defendant identified as City Manager Charles Duggan who is identified as also being the City Clerk. The Complaint makes no allegations of wrongdoing against Charles Duggan nor does it request any relief from him.
2. Dismiss the Defendant identified as Deputy Director Benjamin Walker on the grounds that the Complaint seeks no relief from him.
3. Dismiss the allegations of paragraph 5(3) which purports to assert a civil rights claim against the City of Auburn on the grounds Plaintiff's claim is based on an alleged "Master Agent" relationship and it is well established that a municipality cannot

be liable on the basis of vicarious liability for any alleged Constitutional claim. See, *Monell v. New York Dept. of Social Services*, 436 U.S. 658 (1978).

4. Dismiss Defendant David Watkins who is no longer the City Manager and no longer resides in Auburn, Alabama on the grounds that the purported service is improper, not in accord with the Rules of Procedure, and insufficiency of process and insufficiency of service of process.

/s/ *Randall Morgan*

RANDALL MORGAN [MOR037]

Attorney for Defendants City of Auburn,
Alabama, Benjamin Walker, Officer Lavarro
Bean, Lieutenant Matthews, Lieutenant
Keith Howell, Chief Frank DeGraffenried,
David Watkins, "Bill" James, and Charles
Duggan

OF COUNSEL:

Hill, Hill, Carter, Franco, Cole
& Black, P.C.

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CERTIFICATE OF SERVICE

I hereby certify that on this the 4th day of January, 2007, I have electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification to the following via email:

William S. McLaurine, II
222 Tichenor Avenue, Apt. #4
Auburn, Alabama 36830

/s/ *Randall Morgan*
OF COUNSEL